

REMARKS

Claims 18-27 and 44-47 are now pending in the application. The amendment to the Claim 18 contained herein is of an equivalent scope as the previously pending claims and, thus, is not a narrowing amendment. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 103

Claims 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,811,380 (Spear), in view of U.S. Patent No. 5,608,643 (Wicher) and in further view of U.S. Patent No. 5,230,082 (Ghisler). This rejection is respectfully traversed.

First, Applicant asserts that Claim 18 defines patentable subject matter over Spear in view of Wicher for the same reasons as set forth in an Amendment dated February 27, 2003. Second, Applicant asserts that Ghisler does not teach or suggest “a parameter which identifies ... a number of failures that have occurred for the same communication protocol reason” as recited in Applicant’s claimed invention. Third, Applicant asserts that the Examiner has failed to establish a prima facie case of obviousness. In particular, Applicant asserts that there is no teaching, suggestion or motivation to combine all three of these references. Moreover, it appears as though the Examiner has used impermissible hindsight to combine these references in view of the Applicant’s invention. For each of these reasons, Applicant asserts that Claim 18 defines patentable subject matter over this combination of references.

Claims 23-27 and 44-47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,811,380 (Spear), in view of U.S. Patent No. 5,608,643 (Wicher) and in further view of U.S. Patent Nos. 5,230,082 (Ghisler), 5,995,830 (Amin) and 6,501,947 (Hunzinger). This rejection is respectfully traversed.

It is believed that the originally filed claims are patentably distinct over these references. However, in order to expedite prosecution of this application, Applicant asserts that Hunzinger does not constitute prior art in relation to the present application. Hunzinger qualifies as a prior art reference under 35 U.S.C. 102(e). Furthermore, Applicant hereby assert that Hunzinger as well as the present application were, at the time of the invention, under an obligation to be assigned to the same entity, Denso Corporation. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed; accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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